HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:25462 OF 2007

Dated:30.11.2007

Between:

M/s. K. Paramananda Reddy and Company,
No.16-10-159/1/D,
Malakpet,
Hyderabad, rep., by its
Partner Srinivas Reddy.

..Petitioner

And

1. The Additional Commercial (CT) (Legal) (FAC)
   Office of the Commissioner of Commercial Taxes,
   Nampally Station Road, Opp: Gandhi Bhavan,
   Hyderabad, Andhra Pradesh and others.

..Respondents.

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
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ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to declare the order dated 11.9.2007 in CCT's Ref.No.LIII(2)/525/2007 for assessment year 2003-2004 (APGST) as illegal and arbitrary.

The main grievance of the petitioner is that an appeal has been preferred before the 2nd respondent against the order dated 31.3.2007 and along with the said appeal, the petitioner also filed an application before the 2nd respondent seeking stay of recovery of disputed tax pending appeal but the said application was rejected and hence, the petitioner preferred a revision before the 1st respondent, but the said revision was also rejected. Aggrieved by the same, the present writ petition is filed.

Heard the learned Counsel appearing for the petitioner and the learned Government Pleader for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that an appeal is pending before the 2nd respondent as to the assessment of disputed tax and in such a situation, rejection of stay application is unjustified and that if the relief as to the stay of the proceedings is not entertained and if the recovery of the disputed tax in question is

effected during the pendency of the appeal before the 2nd respondent, the very purpose of filing the said appeal, which is a statutory remedy that is available to the aggrieved party, would be defeated.

In the facts and circumstances of the case and in view of the pendency of the appeal before the 2nd respondent, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted, but subject to imposition of certain conditions. Accordingly, there shall be stay of recovery of disputed tax till the disposal of the appeal pending before the 2nd respondent subject to the condition of the petitioner depositing 50% of the disputed tax within a period of six weeks from today. However, it is made clear that the amount paid if any, shall be given credit to the above stipulated sum.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Rohini

Date: 30th November, 2007
Note:
Issue C.C. in one week
(B/O)
Nn/Gurc.

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(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

30/11/2007